

No. 14/13/87-6Lab./925.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s HAV, Bawal versus Ishwar:—

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Ref. No. 49 of 1990

between

SHRI ISHWAR, S/O SHRI OM PARKASH C/O SHRI SHARDHA NAND, GENERAL SECRETARY, AITUC OFFICE, 214/4, MARLA, GURGAON

and

THE MANAGEMENT OF M/S HARYANA AGRICULTURAL UNIVERSITY, BAWAL,
DISTRICT MOHINDERGARH

Present :

Shri Sharjha Nand, for the workman.

Shri P. K. Gupta, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, (in short "the Act"), the Governor of Haryana referred the following dispute between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government, Labour Department endst. No. 6309—14, dated 15th February, 1990.

Whether termination of services of Shri Ishwar is justified and in order ? If not, to what relief is he entitled ?

2. The facts as contained in the Claim Statement are that the petitioner was employed as a Beldar with the management from 1st May, 1986 and his services were illegally terminated on 30th August, 1989. The petitioner was drawing wages @ Rs. 650 p.m. The petitioner has challenged his termination being illegal.

3. The case set up by the petitioner was controverted by the management in the written statement and it was pleaded that the workman was engaged as unskilled labour on casual basis from June, 1988 and he had worked up to November, 1988 and did not turn up thereafter and he was engaged again in April, 1989 and had left coming on his own from 17th May, 1989 and since he had not completed 240 days he was not entitled to any compensation or any relief.

4. On the pleading of the parties, following issue was framed by my learned predecessor on 26th April, 1991 :—

Whether termination of services of Shri Ishwar was unjustified and in order ? If not, to what relief is he entitled ?

5. I have heard authorised representatives of the parties and have gone through the evidence available on the file. My finding on the issue is as under:—

6. The management has examined Brijvir Singh, MWI, who deposed that the petitioner had worked from June, 1988 to May, 1989 and the details of the working days were given in the schedule Ex. M1 and he had worked for 82 days only.

7. The workman examined himself as WWI. He deposed that he was working with the respondent since 1986 and was getting salary of Rs. 650 p.m. and his services were illegally terminated on 30th August, 1989 and no appointment letter, wage slip, attendance card was given and he had worked continuously and his services were illegally terminated.

8. The management has placed on record Ex. M1 which shows number of working days the petitioner had put in. According to it, the petitioner had worked for 56 days in the year 1988 and 26

days in 1989. It shows that there are gaps of nearly four months in between. The month wise break up has been given below:—

June, 1988	03 days
July, 1988	16 days
August, 1988	05 days
September, 1988	18 days
October, 1988	07 days
November, 1988	07 days
April, 1989	15 days
May, 1989	11 days
	82 days

9. Section 25-B defines continuous service and the case of the petitioner does not fall under it. The documentary evidence placed on the record by the management shows that the petitioner did not work for a period of 280 days in any of the year. The petitioner in this case has failed to lead any evidence in order to show that he had put in 240 days in any of the year's. He did not even summon the record from the management in order to justify his claim. The management was obliged to pay retrenchment compensation only if the petitioner had completed 240 days. Since, in this case petitioner had not put in continuous service of 240 days, therefore, the management was not obliged to give any notice or retrenchment compensation and the petitioner Ishwar is not entitled to any relief. Reference is answered accordingly with no order as to costs.

ANITA CHAUDHARY,

The 7th October, 1994,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 1621, dated the 31st October, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

The 6th December, 1994

No. 14/13/87-6 Lab./934.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the work man and the management of M/s Kanishka Tyre and Tube Ltd., Sonepat Versus Laxmi Chand.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL - CUM-LABOUR COURT, ROHTAK

Reference No. 142 of 1993

between

SHRI LAXMI CHAND, C/O SHRI KARAN SINGH, SECRETARY, BHARTIYA MAZCOR SANGH, PANJPAT

and

THE MANAGEMENT OF M/S KANISHKA TYRE AND TUBE LTD., INDUSTRIAL AREA,
SONEPAT

Present :

None, for the parties.

AWARD

In exercise of the powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court, for adjudication,—*vide* Labour Department Endorsement No. OV/Sont/41-91/26332—37 dated 21st July, 1993 :—

Whether the termination of services of Shri Laxmi Chand is justified, and in order? If not, to what relief is he entitled?

2. The case was called several times, but no one present on behalf of the parties. Hence the reference is dismissed in default. The parties are left to bear their own costs.

P. L. KHANDUJA,

The 9th November, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endst. No. ref. 142-93/2841, dated the 11th November, 1994.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No 14/13/87-6Lab/928—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Executive Engineer, P.W.D. (Public Health), Rohtak *Versus* Ram Chander.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, ROHTAK

Reference No 816 of 1992

between

SHRI RAM CHANDER, S/O SHRI CHARAN SINGH, VILLAGE AND P. O. MAINA,
DISTRICT ROHTAK, WORKMAN

and

THE MANAGEMENT OF M/S EXECUTIVE ENGINEER, P.W.D. DIVISION NO. 1,
PUBLIC HEALTH, ROHTAK

Present :

Shri V. S. Singal, authorised representative, for the workman.

Shri S. C. Verma, A.D.A., for the management.

AWARD

1. In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court, for adjudication,—*vide* Labour Department Endorsement No. O. V./1/Rch 158-92/43413-418, dated 16th September, 1992 :—

Whether termination of services of Shri Ram Chander is justified, and in order? If not, to what relief is he entitled?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was appointed on 1st April, 1989 by the respondent as Mali-cum-Chowkidar basis in the Sub Division No. 8. The service and wages of the workman were extended by the employer Executive Engineer, P.W.D. Public Health Division No. 8. (Rohtak) from time to time. His services continued without any break till 1st July, 1990. The workman used not to give any chance of complaint to get salary and the management terminated the services of the workman on 1st July, 1990 without assigning any reason or reasonable cause. The workman had completed more than 240 days in the calendar year, therefore, the workman is entitled to be heard before giving any sort of punishment. At the time of termination no notice was given to the workman, no charge sheet was issued, no enquiry was conducted by the management, no notice was sent to the Government in prescribed form, no retrenchment compensation was paid to the workman, therefore, the management has contravened the Section 25-F of the I.D. Act. The management has appointed some new junior person and management has not adopted the procedure "first come last go" in this way the management have contravened Section 25-G and H of the I.D. Act. The workman requested the management many times but no action was taken by the employer. Subsequently the workman filed civil writ petition C.W.P. No. 1046906 of 1990 on 1st August, 1990 which was disposed of by the Hon'ble High Court on 6th August 1990, directing the employer to consider the representation and pass appropriate order thereon within six month but the workman gave the representation to the management but the department has neither considered representation of the workman, the workman again filed civil writ petition No. 6559 of 1991 in the High Court. Hence this petition is filed that the workman be reinstated with continuity of service and with full back wages and all other benefits.

3. The management had appeared and filed the written statement that workman was not engaged and appointed w.e.f. 2nd April 1989 and remained on work from time to time as per requirement of the work. The workman was not continuously engaged on work upto 1st July, 1990 as is evidence from the detail at annexure P-1, no notice and chargesheet was required to be issued to the workman as no appointment letter was given in the absence of the same no conduct rules are applicable under which any notice termination/chargesheet is to be given. The Rule "first come list go" is not applicable in this case as no seniority list is to be maintained in case of the workman appointed on daily wages as per requirement of work at site. Thus claim statement is liable to be dismissed.

4. The replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

- (1) Whether the order of termination of the service of the applicant is illegal, if not, to what effect ? OPW.
- (2) Relief ?

5. My findings on the above issues with reasons therefor are as under :—

Issue No. 1 :

6. The workman has come into witness box as WW-1 and closed the evidence. The management has examined Shri B. R. Mittal, S.D.O., Public Health as MW-1 and closed the evidence.

7. Shri B. R. Mittal MW-1 has made statement that the applicant was appointed on 2nd April, 1989 on daily wages and the applicant worked upto 30th June, 1990 and thereafter he left the job on his own. He also made statement that applicant has not worked continuously from 2nd April, 1989 to 30th June, 1990 but he worked intermittently as given in MW-1/1. He also made statement that he had gone into writ petition in the High Court and wherein the workman was given directed to give representation. The application is in writing was sent but is not signed by the applicant. Photostat copy of which is Mark 'B'.

8. The workman made statement that he was appointed as gardner-cum-chowkidar on 1st April, 1989 and he was terminated from service on 1st July, 1990 without assigning any reason or reasonable cause chargesheet for giving any retrenchment compensation. After termination of Rajbir Singh was appointed and he is still working. He had worked for more than 240 days in a year. He also admitted that he had filed civil writ petition in the High Court for regularisation of his service.

9. From the statement of B. R. Mittal it is proved that the workman had worked for more than 240 days in a year. From the statement it is also proved that he was not terminated as per requirement given in Section 25-F of the Industrial Dispute Act.

10. The workman also made statement that he had served for more than 240 days in a year. The learned authorised representative for the management made contention that as the workman had gone to High Court and filed the civil writ petition but his petition was dismissed and hence the workman has no right to

make the claim is done in this case. I have gone through the writ petition and decision thereon. The workman that petition had claimed regularisation the workman is not claiming regularisation. As the petition is for taking into employment and this is of different course hence the reference petition is maintainable and I decide this issue in favour of the workman.

Issue No. 2 (Relief):

11. In view of my findings on the above issues I accept the reference petition and I direct the respondent to re-employ the workman with continuity of service but with 50% of back wages. The reference is answered and returned accordingly. However, the parties are left to bear their own costs.

P. L. KHANDUJA,

The 31st October, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. ref. 315-92-2835, dated the 11th November, 1994.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-6Lab./929.-- In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following order of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Sarup Singh Balhara, Bhatta Co., Village Sisana (Sonepat) *versus* Satbir.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 76 of 1993

between

SHRI SATBIR, S/O SHRI TEK RAM, R.O. SISANA (SONEPAT), WORKMAN

and

THE MANAGEMENT OF M/S SARUP SINGH BALHARA, BHATTA COMPANY, VILLAGE AND P. O. SISANA (SONEPAT).

Present :

Shri Ram Diya, authorised representative, for the workman.

None, for the respondent/management.

ORDER

The applicant has filed this application under Section 33-C(2) of the Industrial Disputes Act, 1947 against the aforesaid respondent that he is entitled to receive the amount of Rs. 6,100 from the above said respondent as work done by him with the respondent for the period from 20th February, 1993 to 13th May, 1993.

2. The authorised representative for the workman Shri. Ram Diya has made statement that the applicant has settled his dispute with the respondent. He has withdrawn the case. In view of the

statement of authorised representative for the workman the application is dismissed as settled. The parties are left to bear their own costs.

The 2nd November, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

Endorsement No. 2836, dated the 11th November, 1994.

Forwarded, in duplicate, to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

No. 14/13/87-6 Lab./930.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s I. C. L. Towers Ltd., Lal Chand Nagar (Jind) versus Vijender Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 235 of 1994

between

SHRI VIJENDER SINGH, S/O SHRI VED RAM, VILLAGE CHINANA, DISTRICT ROHTAK WORKMAN

and

THE MANAGEMENT OF M/S I. C. L. TOWERS LTD., LAL CHAND NAGAR, NEAR JULANA, DISTRICT JIND.

Present :

None, for the management.

AWARD

1. In exercise of the powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the service matter, between the parties, named above, to this Court, for adjudication,—*vide* Labour Department endorsement No. ID/BHI/185-93/36664—69, dated the 20th September, 1993 :—

Whether the termination of services of Shri Vijender Singh is justified and in order? If not, to what relief he is entitled?

2. The case was called several times but no one present on behalf of the parties. Hence the referent is dismissed in default.

P. L. KHANDUJA,

The 2nd November, 1994.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

Endorsement No. ref. 235-94/2837, dated the 11th November, 1994.

Forwarded, (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.